

OPENING REMARKS OF CHAIRMAN BILL DELAHUNT

at a hearing of the House Foreign Affairs Committee Subcommittee on
International Organizations, Human Rights, and Oversight entitled

POSSIBLE EXTENSION OF THE UNITED NATIONS MANDATE FOR IRAQ: OPTIONS

REMARKS PREPARED FOR DELIVERY

July 23, 2008

The Subcommittee will come to order.

Today's hearing is the seventh in a series held by this Subcommittee regarding the so-called Declaration of Principles and any possible agreements based on that document – which was signed by President Bush and Prime Minister al-Maliki last November.

The Declaration of Principles initially embraced a pledge to establish an indefinite, open-ended presence of U.S. combat forces in Iraq in order to – among other commitments:

** Support the Republic of Iraq in defending its democratic system against internal and external threats;*

and to

** Provide security assurances and commitments to the Republic of Iraq to deter foreign aggression.*

These were extraordinary promises by President Bush. Many of us were taken aback not only by the breadth and depth of these commitments – but by the position of the Bush administration that it was unnecessary to submit such an agreement to the United States Congress.

This unprecedented claim to executive branch authority prompted Senator Clinton to file a bill in the Senate, and our colleague Rosa DeLauro of Connecticut to file a similar one in the House – the effect of which would be to require the submission of such an agreement to Congress for its approval.

In our first hearing, on December 19, 2007, we reviewed the role that the Iraqi Parliament expected to play in the approval of the extension of the UN Mandate to December 31, 2008 – as expressed in a letter from a majority of members to Prime Minister al-Maliki and the UN Security Council calling for the inclusion of a timetable for the withdrawal of U.S. troops – otherwise, they would not support the extension. I would note that all our witnesses at this hearing agreed that under Article 61 of the Iraqi Constitution, any U.S.-Iraq agreement which would supplant the UN Mandate would have to be submitted to the Parliament for approval.

This was subsequently confirmed by correspondence with the Congress by Members of the Iraqi Parliament representing a majority of that body – and in the appearance before this Subcommittee on June 3 of this year by two parliamentarians whose parties had signed that letter. Let me quote from that letter:

We, the undersigned members of the council, wish to confirm your concerns that any international agreement that is not ratified by the Iraqi legislative power is considered unconstitutional and illegal, in accordance with the current rulings and laws of the Iraqi Republic.

On Monday of this week a statement by Prime Minister al-Maliki, quoted in the newspaper Azzaman, reaffirmed the constitutional requirement that the agreement -- and I quote the Prime Minister -- “*requires the approval of the representatives of the people in parliament.*”

Thus it’s indisputable that approval by the Iraqi parliament is a prerequisite -- a *sine qua non* as we used to say in my days as a sophisticated member of the Bar -- to any valid, legitimate bilateral agreement.

And yet -- despite the recent dramatic change in public statements by both executive branches concerning a timetable for the withdrawal of American troops by 2010 -- it is still very much in question whether an agreement can be consummated by December 31, 2008 -- given both the Iraqi parliament’s limited calendar and the lack even of the implementing legislation necessary for the consideration of any international agreement -- legislation that will require a two-thirds vote for enactment.

Furthermore, we hear from our colleagues in the Iraqi Parliament that they feel they have not been adequately informed as to the substance of the agreement and its implications for Iraqi sovereignty.

I'm not going to take the time today to debate the Constitutional role of the United States Congress in this matter – as we have had a hearing on that issue. However, most of the information that has come to us in the House and Senate has not come as a result of the detailed consultation with Congress that is provided for by the State Department's own regulations, contained in Circular 175.

As Chairman Berman of the full Committee and Chairman Skelton of the Armed Services Committee recently said in a letter to President Bush dated June 12:

Senior officials of the administration, including two Cabinet Secretaries, have pledged to keep Congress apprised of the progress of the negotiations throughout the course of the discussions. Unfortunately, we do not believe that your administration has adequately fulfilled this pledge.

From the beginning it has been my position that a short-term extension of the UN Mandate is the best course of action – a course that will allow thoughtful review and provide the new president and the next Congress as well as the political leadership in Iraq sufficient time to consider and analyze in a transparent process all of the concerns of both the American and Iraqi publics. These issues are too important to be dealt with through a hasty, secretive approach. That is why Congresswoman DeLauro and I introduced legislation to that effect -- H.R. 5626.

And I am pleased to see that former prime Minister, and current member of parliament, Dr. Ayad Allawi, who has graciously accepted my invitation to come to the United States to engage in dialogue with his counterparts here in the Congress on a range of matters, has independently arrived at the same conclusion. At the conclusion of the hearing portion of today's event, Dr. Allawi will brief us on his reasoning, and provide us with the benefit of his expertise, his insights, and his concerns about stability in Iraq and the region.

All of us should accept the need for a reasonable and responsible withdrawal of U.S. troops, because we recognize and respect the aspirations of the Iraqi people for sovereignty. A priority for the Iraqi people is the end of the

occupation and a full restoration of their rights and dignity as a sovereign people. And I support that worthy ambition.

At the same time, we must insist on legal protection for our troops.

If there is no agreement, or if the agreement is of dubious legality because of concerns about the lack of approval by the legislatures, will our troops be sufficiently protected?

A way must be found to make Iraqi sovereignty and protection for American troops compatible. I would submit that it is time to revisit the United Nations Mandate, which has provided protection for our troops for five years, to determine if there is an option that will give full, unqualified legal protection to American troops and at the same time meet the Iraqis' aspirations for sovereignty.

The option I recommend is to extend the UN Mandate -- but not under Chapter VII, which continues Iraq's involuntary ceding of sovereignty to the United Nations Security Council. However, Iraq could request a short-term extension of the Mandate under Chapter VI, which provides for voluntary agreements for the presence of foreign troops -- agreements that are requested, negotiated, and controlled by the host nation, with full recognition of their sovereignty. I look forward to hearing Dr. Allawi's thoughts on this option.

Before introducing our witnesses, let me turn to my friend and ranking member, Mr. Rohrabacher of California, for his opening remarks.